

By: Phillips

H.B. No. 2591

A BILL TO BE ENTITLED

AN ACT

relating to the appraisal for ad valorem tax purposes of certain dealer's heavy equipment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 23.1241(a)(1), (2), (7), (8), and (9), Tax Code, are amended to read as follows:

(1) "Dealer" means a person engaged in the business in this state of selling~~[, leasing, or renting]~~ heavy equipment. The term does not include a bank, savings bank, savings and loan association, credit union, or other finance company. In addition, for purposes of taxation of a person's inventory of heavy equipment in a tax year, the term does not include a person who renders the person's inventory of heavy equipment for taxation in that tax year by filing a rendition statement or property report in accordance with Chapter 22.

(2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale at retail ~~[, lease, or rent]~~ in this state ~~[during a 12-month period]~~. The term includes items of heavy equipment that are leased or rented for a term of 12 months or less and subject to a purchase option by the lessee or renter.

(7) "Sales price" means:

(A) the total amount of money paid or to be paid to a dealer for the purchase of an item of heavy equipment; or

1 (B) for a lease or rental with an option to
2 purchase, the total amount of the lease or rental payments plus any
3 final consideration, excluding interest.

4 (8) "Subsequent sale" means a dealer-financed sale of
5 an item of heavy equipment that, at the time of the sale, has been
6 the subject of a dealer-financed sale from the same dealer's heavy
7 equipment inventory in the same calendar year. The term includes a
8 lease or rental of an item of heavy equipment for a term of 12 months
9 or less that is subject to a purchase option by the lessee or renter
10 if, at the time of the lease or rental, the item has been the subject
11 of a lease or rental from the same dealer's heavy equipment
12 inventory in the same calendar year. [~~The term does not include a~~
13 ~~rental or lease with an unexercised purchase option or without a~~
14 ~~purchase option.~~]

15 (9) "Total annual sales" means the total of the[+
16 [~~(A)~~] sales price for each sale from a dealer's
17 heavy equipment inventory in a 12-month period[+~~and~~
18 [~~(B)~~ lease and rental payments received for each
19 ~~lease or rental of heavy equipment inventory in a 12-month period~~].

20 SECTION 2. Sections 23.1241(b) and (e), Tax Code, are
21 amended to read as follows:

22 (b) For the purpose of the computation of property tax:

23 (1) [7] the market value of a dealer's heavy equipment
24 inventory on January 1 is the total annual sales, less sales to
25 dealers, fleet transactions, and subsequent sales, for the 12-month
26 period corresponding to the preceding tax year, divided by 12; and

27 (2) a sale is considered to occur when possession of an

1 item of heavy equipment is transferred from the dealer to the
2 purchaser.

3 (e) A dealer is presumed to be an owner of a dealer's heavy
4 equipment inventory on January 1 if, in the 12-month period ending
5 on December 31 of the preceding year, the dealer sold~~[, leased, or~~
6 ~~rented]~~ an item of heavy equipment to a person other than a
7 dealer. The presumption is not rebutted by the fact that a dealer
8 has no item of heavy equipment physically on hand for sale from the
9 dealer's heavy equipment inventory on January 1.

10 SECTION 3. Sections 23.1242(b), (e), and (f), Tax Code, are
11 amended to read as follows:

12 (b) Except for an item of heavy equipment sold to a dealer,
13 an item of heavy equipment included in a fleet transaction, or an
14 item of heavy equipment that is the subject of a subsequent sale,
15 ~~[or an item of heavy equipment that is subject to a lease or~~
16 ~~rental,]~~ an owner or a person who has agreed by contract to pay the
17 owner's current year property taxes levied against the owner's
18 heavy equipment inventory shall assign a unit property tax to each
19 item of heavy equipment sold from a dealer's heavy equipment
20 inventory. ~~[In the case of a lease or rental, the owner shall~~
21 ~~assign a unit property tax to each item of heavy equipment leased or~~
22 ~~rented.]~~ The unit property tax of each item of heavy equipment is
23 determined by multiplying the sales price of the item ~~[or the~~
24 ~~monthly lease or rental payment received for the item, as~~
25 ~~applicable,]~~ by the unit property tax factor. ~~[If the transaction~~
26 ~~is a lease or rental, the owner shall collect the unit property tax~~
27 ~~from the lessee or renter at the time the lessee or renter submits~~

1 ~~payment for the lease or rental. The owner of the equipment shall~~
2 ~~state the amount of the unit property tax assigned as a separate~~
3 ~~line item on an invoice.]~~ On or before the 10th day of each month
4 the owner shall, together with the statement filed by the owner as
5 required by this section, deposit with the collector an amount
6 equal to the total of unit property tax assigned to all items of
7 heavy equipment sold~~[, leased, or rented]~~ from the dealer's heavy
8 equipment inventory in the preceding month to which a unit property
9 tax was assigned. The money shall be deposited by the collector to
10 the credit of the owner's escrow account for prepayment of property
11 taxes as provided by this section. An escrow account required by
12 this section is used to pay property taxes levied against the
13 dealer's heavy equipment inventory, and the owner shall fund the
14 escrow account as provided by this subsection.

15 (e) The comptroller by rule shall adopt a dealer's heavy
16 equipment inventory tax statement form. Each month, a dealer shall
17 complete the form regardless of whether an item of heavy equipment
18 is sold~~[, leased, or rented]~~. A dealer may use no other form for
19 that purpose. The statement may include the information the
20 comptroller considers appropriate but shall include at least the
21 following:

22 (1) a description of each item of heavy equipment
23 sold, ~~[leased, or rented]~~ including any unique identification or
24 serial number affixed to the item by the manufacturer;

25 (2) the sales price of ~~[or lease or rental payment~~
26 ~~received for]~~ the item of heavy equipment~~[, as applicable]~~;

27 (3) the unit property tax of the item of heavy

1 equipment, if any; and

2 (4) the reason no unit property tax is assigned if no
3 unit property tax is assigned.

4 (f) On or before the 10th day of each month, a dealer shall
5 file with the collector the statement covering the sale~~[, lease, or~~
6 ~~rental]~~ of each item of heavy equipment sold~~[, leased, or rented]~~ by
7 the dealer in the preceding month. On or before the 10th day of a
8 month following a month in which a dealer does not sell~~[, lease, or~~
9 ~~rent]~~ an item of heavy equipment, the dealer must file the statement
10 with the collector and indicate that no sales~~[, leases, or rentals]~~
11 were made in the prior month. A dealer shall file a copy of the
12 statement with the chief appraiser and retain documentation
13 relating to the disposition of each item of heavy equipment sold
14 ~~[and the lease or rental of each item of heavy equipment]~~. A chief
15 appraiser or collector may examine documents held by a dealer as
16 provided by this subsection in the same manner, and subject to the
17 same conditions, as provided by Section 23.1241(g).

18 SECTION 4. Section 23.1241(b-1), Tax Code, is repealed.

19 SECTION 5. This Act applies only to ad valorem taxes imposed
20 for a tax year beginning on or after the effective date of this Act.

21 SECTION 6. This Act takes effect January 1, 2016.